

APPENDIX

Constitutional Provisions and Statutes Involved

A

CONSTITUTION OF THE UNITED STATES

Amendments

Article V.

"* * * nor shall any person * * * be deprived of * * * property without due process of law."

Article XIV.

"Section 1. * * * nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

B

CONSTITUTION OF WYOMING

Article I, title, "Declaration of Rights."

"Section 6. Life, liberty, property. No person shall be deprived of life, liberty or property without due process of law."

"Section 31. Water—Control of. Water being essential to industrial prosperity, of limited amount and easy of diversion from its natural channels, its control must be in the state, which, in providing for its use, shall equally guard all the various interests involved."

Article VIII, title, "Irrigation and Water Rights."

"Section 1. Water is state property. The water of all natural streams, springs, lakes, or other collections of still water, within the boundaries of the state, are hereby declared to be the property of the state."

"Section 2. Board of Control. There shall be constituted a board of control, to be composed of the state engineer

and superintendents of the water divisions, which shall, under such regulations as may be prescribed by law, have the supervision of the waters of the state and of their appropriation, distribution and diversion, and of the various officers connected therewith. Its decisions to be subject to review by the courts of the state."

"Section 3. Priority of appropriation. Priority of appropriation for beneficial uses shall give the better right. No appropriation shall be denied except when such denial is demanded by the public interests."

"Section 4. Water divisions. The legislature shall by law divide the state into four (4) water divisions, and provide for the appointment of superintendents thereof."

C

Wyoming Revised Statutes, 1931

"Section 122-203. Duties of superintendents. Said division superintendent shall have general control over the water commissioners of the several districts within his division. He shall, under the general supervision of the state engineer, execute the laws relative to the distribution of water in accordance with the rights of priority of appropriation, and perform such other functions as may be assigned to him by the state engineer. It shall be the duty of said division superintendent to regulate and control the storage and use of water under all rights of appropriation which have been adjudicated by the board of control or by the courts, and to regulate and control the storage and use of water under all permits approved by the state engineer, whether the rights acquired thereunder have been adjudicated or not." (L. '90-'91, c. 8, § 14.)

"Section 122-303. Duties of water commissioners. It shall be the duty of the said water commissioner to divide the water of the natural stream or streams of his district among the several ditches and reservoirs taking water therefrom, according to the prior right of each, respectively, in whole or in part, and to shut and fasten, or cause to be shut and fastened, the head gates of ditches, and shall regulate or cause to be regulated the controlling works of reservoirs, in times of scarcity of water, as may be necessary by reason of the priorities of right existing from said streams of his

district. Such water commissioner shall have authority to regulate the distribution of water among the various users under any partnership or incorporated ditch or partnership or incorporated reservoir where rights have been adjudicated in accordance with existing decrees. Whenever, in the pursuance of his duties, the water commissioner regulates a head gate to a ditch or the controlling works of reservoirs, it shall be his duty to attach to such head gate or controlling works a written notice, properly dated and signed, setting forth the fact that such head gate or controlling works has been properly regulated and is wholly under his control and such notice shall be a legal notice to all parties interested in the division and distribution of the water to such ditch or reservoir. * * *." (L. '31, c. 109, § 1, amending L. '90-'91, c. 8, § 42.)

"Section 122-304. Control and regulation of water—Oath and bond of water commissioners. Said water commissioner shall, as near as may be, divide, regulate and control the use of the water of all streams within his district by such closing or partial closing of the head gates as will prevent the waste of water, or its use in excess of the volume to which the appropriator is lawfully entitled. Such water commissioner shall have the authority to require the filling of any reservoir whenever practical and water is available for storage from the stream or streams from which the appropriations for such reservoir are established. * * *." (L. '25, c. 84, § 1, amending C. S. '20, § 923.)

"Section 122-419. Date of priority. The priority of such appropriation shall date from the filing of the application in the engineer's office." (L. '90-'91, c. 8, § 37.)

"Section 89-521. Saving rights of parties not before court. The court may determine any controversy between parties before it when it can be done without prejudice to the rights of others, or by saving their rights; but when a determination of the controversy cannot be had without the presence of other parties, the court may order them to be brought in or dismiss the action without prejudice. (R. S. '77, § 2402; R. S. '99, § 3487; C. S. '10, § 4331; C. S. '20, § 5600)."

